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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of mercies, whose unfailing love and faithfulness cover our sins, make us today instruments of Your grace. Give us the wisdom to think before speaking and to say the right thing at the right time. May our actions so please You that even our enemies will live at peace with us.

Guide our lawmakers in their challenging work. Remind them that many counselors bring success. Help them also to remember that they can make plans but You determine their steps. Teach us all that it is better to be patient than powerful, and it is better to have self-control than to conquer a city. Guide us by Your light that we may reach the light that never fades.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes with the first half of the time under the control of the majority leader or his designee and the second half of the time under

the control of the Democratic leader or his designee.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a 1-hour period for morning business, which will follow the remarks of the two leaders. After morning business, the Senate will begin consideration of the pension security bill under the time agreement which was reached last night. Under that order, there will be 2 hours of general debate on the bill and substitute, with two additional amendments in order limited to 30 minutes each. We will finish that bill today with probably three rollcall votes. We will also vote on the adoption of the conference report to accompany the Commerce-Justice-Science appropriations bill that was debated yesterday. The vote on final passage will be stacked with the pension votes that we will have a little bit later this morning.

In addition, yesterday the Finance Committee reported the tax increase prevention bill. That is the tax reconciliation bill, and we will begin that measure today as well. Hopefully, we will be able to get to that bill as soon as possible in order to begin the clock running on the 20-hour statutory time agreement and, hopefully, we will be

able to facilitate a very busy schedule this week by beginning that tax measure early this afternoon and using some of that time to get the clock started.

In addition, we have conference reports that will be coming over from the other side. We will continue to consider any of those available conference reports as they arrive from the House. I will be back to the floor to update Members on the schedule for the remainder of the week as these conference reports become available.

As I have mentioned, we have a lot of business to do today. Although we have made huge progress over the course of yesterday, much of which is seen on the floor, and we had a very successful day, there is much of which people do not see that is occurring in these conferences that are ongoing. We do have a lot to do. I know there are a lot of Members who are asking about their schedules, whether we will be out Friday, Saturday, Sunday, Monday, or Tuesday. Again, things are coming along nicely to be out at a reasonable time, but a lot depends on how efficiently we can work together. I am pleased with the progress that has been made over the last 48 hours.

ASBESTOS LITIGATION REFORM

Mr. FRIST. Mr. President, I have been working with my colleagues for 3 years to reform our asbestos litigation system. It is a system that today is unfair and unjust. Because of that, people suffer, jobs are lost, and bankruptcies occur. The day has come for us to fix it.

I am pleased to inform my colleagues that asbestos reform will be the first major legislation that we consider in late January when we return. In January, asbestos reform will be the first major legislation that we consider.

I commend my friend, Senator SPECTER, chairman of the Judiciary Committee. Rarely a day goes by that we

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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have a conversation that he does not mention the importance of this bill that he, working with the ranking member, Senator LEAHY, has spent so much time and focus on. I commend them for those tireless efforts to forge a bipartisan—and we do not hear that word very much around here—consensus.

I had hoped that the Senate would be able to bring the legislation to the floor some time in the last several weeks or months and that we could debate it and pass asbestos litigation reform this year. Unfortunately, as we all know, there have been a number of circumstances, with Katrina, the fact that we have indeed taken each of the appropriations bills across the floor individually, the Supreme Court nominations, all of which have slowed down our work on asbestos in terms of bringing it to the floor.

Now that wait is over. No more delay. After 4 hearings—10 including markups—2 years of intense negotiations, the Senate will finally resolve the asbestos litigation crisis that currently is clogging our Nation's courtrooms and threatening America's economic health. There is wide agreement that the current asbestos litigation system is disastrous. It is disastrous for everybody. It is disastrous for victims who suffer from asbestosis or mesothelioma. It is disastrous for an ever-widening circle of companies that it bankrupts. It is disastrous for the tens of thousands of jobs that are lost, and it is disastrous ultimately for the American people.

More than 700,000 individuals have filed claims with at least 8,400 defendant companies. More than 300,000 claims are currently pending. More than \$70 billion has already been spent trying to resolve these claims that have bankrupted nearly 80 companies. It is time to fix the system. The system is out of control. It is time for commonsense reform.

According to the 2002 study by Nobel laureate Joseph Stiglitz, asbestos bankruptcies have cost nearly 60,000 jobs and \$200 million in lost wages. That is wrong. Employees' retirement funds have shrunk by 25 percent. Meanwhile, the sickest victims of asbestos exposure are not getting their efficient compensation or their fair compensation. Instead, they are waiting in line behind thousands of claimants who are themselves unimpaired.

A recent RAND study put the number of unimpaired claimants at 60 percent—6-0 percent. Even if after years of waiting and an ill claimant finally does get a court settlement, that award is whittled down, gets smaller and smaller because of lawyer's fees and other expenses until it is less than half of the original sum that was awarded. It is too little too late for far too many people.

We do have a solution, and we will bring that to the floor. The \$140 billion fund that is on the table will ensure that victims receive proper compensa-

tion without delay. Unlike the tort system, the \$140 billion trust fund—and this is not taxpayer money—will provide certainty and fair relief. The money will go to the victims instead of to the trial lawyers.

Mesothelioma, just to give an example, is a devastating disease. In the mid-1980s I spent almost a year in England operating, doing thoracic surgery, chest surgery, lung surgery, at South Hampton Hospital in South Hampton, England. It was not unusual to see mesothelioma, which is an asbestos-related disease that encases the lung with thick fibrous plaques which restrict the expansion of the lung, and people end up suffocating to death.

Under this bill, a victim suffering from mesothelioma will get \$1.1 million within months to help pay for medical expenses and the suffering. It will not be delayed 6 months, 1 year, or 2 years. The entire \$1.1 million will go to the victim instead of half of it going to a system that is out of control.

A person suffering from asbestosis, which is a manifestation of asbestos exposure, will receive as much as \$850,000 under this bill. The fund provides significant compensation because we recognize that these are serious illnesses. These are dire illnesses that can be caused by asbestos exposure. They are life threatening and life altering and the victims deserve that fair, just, and timely compensation which they are not getting today.

I commend both Chairman SPECTER, Senator LEAHY, and all of my colleagues on the Judiciary Committee for tackling asbestos reform. Again, we will bring that to the floor in late January. The committee is holding a hearing on asbestos on Thursday, tomorrow. I applaud them for moving forward on this bill to help people understand what is at stake.

I call upon my colleagues to work directly with Senator SPECTER and Senator LEAHY over the next few weeks so that this bill can be considered and approved expeditiously in January. I know there is bipartisan support for S. 852 in this Chamber. I understand that it will involve debate and amendment, and that is appropriate. Yet I am confident that by pulling together we can pass S. 852 and put the asbestos crisis where it belongs, and that is behind us.

I look forward to getting this done, and I look forward to continuing to deliver meaningful solutions to the American people.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

THE NOMINATION OF JUDGE ALITO

Mr. REID. Mr. President, 2 weeks ago the President nominated Judge Samuel A. Alito to serve on the Supreme Court of the United States. I congratulate Judge Alito on this high honor. I pledge that the Senate Democrats will help ensure a thorough and dignified

confirmation process. While I approach the confirmation process with an open mind, even at this early stage I have a number of significant concerns I want to share with my colleagues.

First, the President's selection of Judge Alito was not at all the product of consultation with Senate Democrats, as envisioned by the Founding Fathers. On two prior occasions President Bush spoke with me. He invited Senator LEAHY and me to the White House to discuss the future of the Supreme Court. The President listened seriously to our views and appeared to understand that the job of filling judicial vacancies is a constitutional responsibility that he shares with the Senate.

But this time, instead of an invitation to the White House, I received nothing more than a pro forma telephone call from the President's Chief of Staff, telling me he had selected Judge Alito about an hour before he announced the nomination. In fact, the President did consult about the Alito nomination but with the wrong people. It wasn't with me and it wasn't with Senator LEAHY. According to widely recognized press reports, the White House consulted with conservative activists to make sure the President would not disappoint them with his selection. I think the term conservative activists is probably very broad, too broad; with some extremes—extreme on the right wing. Some of these extreme Web sites received word of the Alito nomination before any Senate Democrat was even consulted or informed.

Consultation is not just a courtesy; it is a way for the President to ensure that a candidate for a lifetime appointment to the Supreme Court receives broad bipartisan support in Congress. That was what our Founding Fathers talked about. That is why that provision is in the Constitution. The constitutional design commands a partnership in this endeavor, not mere notification of the coequal branch of Government.

The second reason I have early concerns about this nomination is that it represents an abandonment of the principle that the Supreme Court should be comprised of highly qualified individuals with diverse backgrounds, experiences, and heritages. It is so striking that President Bush has chosen a man to replace Justice Sandra Day O'Connor, the first of only two women ever appointed to the Supreme Court. Today, unlike 24 years ago, when Sandra Day O'Connor herself was nominated, more than half of the Nation's law students are women. There are countless qualified women on the bench, in elective office, in law firms, and serving as law school deans and law professors. I cannot believe the President searched this country and was unable to find a qualified female nominee. But maybe he was unable to find a qualified female nominee who happened to satisfy the extreme right wing of the Republican Party.